

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the matter of:)	
)	
PETITION OF ILLINOIS DEPARTMENT OF)	AS 2008-01
TRANSPORTATION, DISTRICT 8, BOWMAN)	(Adjusted Standard)
AVENUE PUMP STATION AND DEEP WELL)	
SYSTEM, FOR AN ADJUSTED STANDARD)	
FROM 35 ILL. ADM. CODE 302.208(g))	
(NODES PERMIT NO. IL007095))	
)	
)	
)	

NOTICE OF FILING

TO: Dorothy Gunn, Clerk	Carol Webb, Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
State of Illinois Center	1021 North Grand Avenue East
100 W. Randolph Street, Suite 11-500	P.O. Box 19274
Chicago, Illinois 60601-3218	Springfield, Illinois 62794-9274
Alec Messina, Respondent	Kenneth Liss, Interested Party
Illinois Environmental Protection Agency	Andrews Environmental Engineering
Division of Legal Counsel	3300 Ginger Creek Drive
1021 North Grand Avenue East	Springfield, Illinois 62711
P.O. Box 19276	
Springfield, Illinois 62784-9276	

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Pollution Control Board the attached (1) Motion to Voluntarily Withdraw Petition for Adjusted Standard and (2) Status Report, a copy of which is herewith served upon you.

Respectfully submitted,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
Petitioner

By: Lance T. Jones
One of Its Attorneys
Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
Phone: (217) 782-3215
Lance.Jones@illinois.gov


CERTIFICATE OF SERVICE

I, undersigned, certify that on this ____ day of April, 2009, I served electronically the attached (1) MOTION TO VOLUNTARILY WITHDRAW PETITION FOR ADJUSTED STANDARD (2) and STATUS REPORT, upon the following persons:

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601

And electronically and by first class mail, postage affixed, to the persons listed on the NOTICE OF FILING.

Respectfully submitted,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
Petitioner

By: 
One of Its Attorneys
Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
Phone: (217) 782-3215
Lance.Jones@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the matter of:)
)
PETITION OF ILLINOIS DEPARTMENT OF) AS 2008-01
TRANSPORTATION, DISTRICT 8, BOWMAN) (Adjusted Standard)
AVENUE PUMP STATION AND DEEP WELL)
SYSTEM, FOR AN ADJUSTED STANDARD)
FROM 35 ILL. ADM. CODE 302.208(g))
(NODES PERMIT NO. IL007095))
)
)
)

MOTION TO VOLUNTARILY WITHDRAW
PETITION FOR ADJUSTED STANDARD

NOW COMES Petitioner, the Illinois Department of Transportation (“Department”) by and through its attorneys, and requests that the Illinois Pollution Control Board (“Board”) grant the Department’s Motion to Voluntarily Withdraw Petition for Adjusted Standard, stating as follows:

1. On July 27, 2007, the Department filed a Petition for Adjusted Standard from the Board’s general use water quality standards for sulfate and total dissolved solids (“TDS”) at 35 Ill. Adm. Code. The Department’s Petition concerns discharge from its District 8 Bowman Avenue Pump Station in East St. Louis, St. Clair County. In the Petition, the Department proposed adjusted standards of 642 mg/L for sulfate and 1,128 mg/L for TDS.
2. On November 13, 2007, the Department filed a Motion to Stay Proceedings, pending the Board’s decision in Triennial Review of Sulfate and Total Solids Water Quality Standards (“Triennial”) since an adoption of the applicable parts of Triennial would satisfy the Department’s adjusted standard proposed for sulfate and TDS.
3. On December 20, 2007, the Board granted the Department’s Motion to Stay, stating the Stay would be terminated “through final Board action in Triennial, at which time the

Department must, within 45 days thereafter, file with the Board either a motion to voluntarily dismiss AS 08-1, or notice of the Department's intent to go forward with the adjusted standard proceeding, accompanied by a status report."

4. On September 4, 2008, the Board adopted the Triennial Rule and directed the Clerk to file with the Secretary of State for publication in the Illinois Register for final adoption. The Triennial Rule, as adopted on September 4, 2008, satisfies the Department's petition for adjusted standard for sulfate and TDS. At that time, the United States Environmental Protection Agency ("USEPA") had not issued a review of the Triennial Rule as required under 40 CFR 131.21.

5. On November 3, 2008, the Department requested that the Board continue to stay the proceedings pending the USEPA's review of the Triennial Rule.

6. On December 4, 2008, the Board granted the Department's Motion to Stay the proceedings through June 4, 2009 by which time the Department must file a Motion to Voluntarily Dismiss or file a status report and continue to stay the proceedings.

7. On March 18, 2009, the USEPA issued a letter to the Illinois Environmental Protection Agency ("IEPA") approving the revised criteria for sulfate and TDS pursuant to section 303 of the Clean Water Act (CWA) and federal regulations at 40 CFR 131.21. (Attached as Exhibit A).

8. The revised criteria for sulfate and TDS adopted by the Board and later approved by the USEPA satisfies the Department's Petition for Adjusted Standard for sulfate and TDS and therefore the Petition is no longer necessary.


9. Based on these facts and circumstances, the Department has determined that it is appropriate to withdraw the Department's Petition for Adjusted Standard.

WHEREFORE, the Department requests that the Board grant the Petitioner's Motion to Withdraw and enter an Order dismissing the Petition.

Respectfully submitted,

**ILLINOIS DEPARTMENT OF
TRANSPORTATION**

By:



One of Its Attorneys

Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Illinois Department of Transportation, Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
Phone: (217) 782-3215
Lance.Jones@illinois.gov

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the matter of:)
)
PETITION OF ILLINOIS DEPARTMENT OF) AS-2008-01
TRANSPORTATION, DISTRICT 8, BOWMAN) (Adjusted Standard)
AVENUE PUMP STATION AND DEEP WELL)
SYSTEM, FOR AN ADJUSTED STANDARD)
FROM 35 ILL. ADM. CODE 302.208(g))
(NODES PERMIT NO. IL007095))
)
)
)
)

STATUS REPORT

NOW COMES Petitioner, the Illinois Department of Transportation (“Department”) by and through its attorney, and submits this Status Report in this matter.

On July 27, 2007, the Department filed a Petition for Adjusted Standard requesting relief from the Board’s general use water quality standards for sulfate and total dissolved solids (TDS) at 35 IL. Adm. Code 302.208(g).

On September 20, 2007, the Board issued an Order adopting the first-notice proposal in the Triennial Rule (R 07-09).

On November 13, 2007, the Department filed a Motion to Stay the Proceedings pending the decision in the Triennial Rule.

On December 20, 2007, the Board granted the Department’s Motion to Stay, stating the Stay would be “terminated through final Board action in Triennial, at which time the Department must, within 45 days thereafter, file with the Board either a motion to voluntarily dismiss AS 08-1, or notice of the Department’s intent to go forward with the adjusted standard proceeding, accompanied by a status report.”

On May 1, 2008, the Board issued an order proposing a second-notice opinion proposal in the Triennial Rule.

On June 19, 2008 the Board adopted proposed amendments for second notice for the Triennial Rule. The amended Triennial Rule still satisfied the Department's petition for adjusted standards for sulfate and TDS.

On September 4, 2008, the Board adopted the amendments for the Triennial Rule and filed with Secretary of State for publication in the Illinois Register for final adoption.

On November 3, 2008, the Department filed a Motion to Stay the proceedings pending the United States Environmental Protection Agency's ("USEPA's") review of the Triennial Rule.

On December 4, 2008 the Board granted the Department's Motion to Stay the proceedings through June 4, 2009 by which time the Department must file a Motion to Voluntarily Dismiss the case or file a status report and continue to Stay the proceedings.

On March 18, 2009, the USEPA issued a letter to the Illinois Environmental Protection Agency ("IEPA") approving the revised criteria for sulfate and TDS pursuant to section 303 of the Clean Water Act and federal regulations at 40 CFR 131.21.


As discussed in the Department's Motion to Voluntarily Withdraw the Petition for Adjusted Standard, the revised criteria for sulfate and TDS adopted by the Board and later approved by the USEPA satisfies the Department's Petition for Adjusted Standard for sulfate and TDS and therefore the Petition is no longer necessary.

WHEREFORE, the Department requests that the Board grant the Department's Motion to Voluntarily Withdraw the Petition for Adjusted Standard.

Respectfully submitted,

**ILLINOIS DEPARTMENT OF
TRANSPORTATION**

By:



One of Its Attorneys

Lance T. Jones
Carrie Zalewski (Solberg)
Cindy Bushur-Hallam
Illinois Department of Transportation, Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
Phone: (217) 782-3215
Lance.Jones@illinois.gov



Electronic Filing Received, Clerk's Office, April 8, 2009

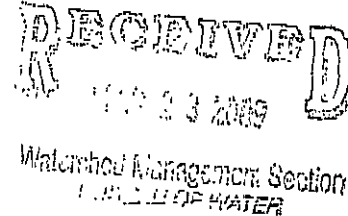
Exhibit A

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 19, 2009

REPLY TO THE ATTENTION OF
WQ-16J

Marcia T. Willhite, Chief
Bureau of Water
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, Illinois 62794-9276



Dear Ms. Willhite:

Thank you for your November 25, 2008, letter submitting Illinois' revised water quality standards for sulfate and total dissolved solids (TDS) to U.S. Environmental Protection Agency. The revisions to the rules include changes to the following sections: 35 Illinois Administrative Code 302.102, 302.208, 309.103, 405.109, 406.100, 406.203, and 407.

As specified in 40 CFR 131.21, EPA is required to review and approve state water quality standards. EPA has reviewed the information submitted in support of the revised rules and hereby approves the revised criteria for sulfate and TDS pursuant to section 303 of the Clean Water Act (CWA) and federal regulations at 40 CFR 131.21.

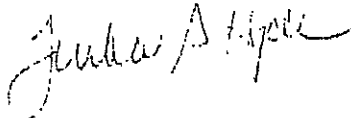
Consistent with section 7 of the Endangered Species Act (ESA) and federal regulations at 50 CFR Part 402, EPA is required to consult with U.S. Fish and Wildlife Service (USFWS) on any action that may affect federally-listed threatened and endangered species. Pursuant to the "Memorandum of Agreement between the EPA and USFWS regarding enhanced coordination under the Clean Water Act and Endangered Species Act" governing consultation with USFWS, the approval of new and revised State water quality criteria under section 303 of the CWA is an action requiring consultation. To date, EPA has initiated, but not completed, consultation with USFWS on the revised rules approved above. EPA has determined that this approval action does not violate section 7(d) of the ESA, which prohibits irreversible or irretrievable commitments of resources that have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives, and has included in the record the basis for the conclusion that there are not impacts of concern during the interim period until the consultation is completed.

Electronic Filing - Received, Clerk's Office, April 3, 2009

Exhibit A

If you have any questions, please contact me or Eric Brossman of my staff at 312-886-0233 or brossman.eric@epa.gov.

Sincerely,



Tinka G. Hyde
Director, Water Division

cc: Richard T. Nelson, USFWS
✓ Bob Mosher, IL EPA